

108TH CONGRESS } 2d Session	HOUSE OF REPRESENTATIVES	{ REPORT 108—
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## CHILD NUTRITION IMPROVEMENT AND INTEGRITY ACT

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MARCH , 2004.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. BOEHNER, from the Committee on Education and the  
Workforce,

submitted the following

### R E P O R T

together with

### MINORITY VIEWS

[To accompany H.R. 3873]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3873) to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with access to food and nutrition assistance, to simplify program operations, to improve children's nutritional health, and to restore the integrity of child nutrition programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Nutrition Improvement and Integrity Act".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.

## TITLE I—ENSURING ACCESS TO CHILD NUTRITION PROGRAMS

- Sec. 101. Exclusion of military housing allowances.
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## TITLE II—IMPROVING PROGRAM QUALITY AND INTEGRITY

- Sec. 201. Eligibility and certification for free and reduced price lunches.
- Sec. 202. Duration of eligibility for free and reduced price lunches.
- Sec. 203. Certification by local educational agencies.
- Sec. 204. Compliance and accountability.
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- Sec. 206. Minimum State administrative expense grants.
- Sec. 207. District-wide eligibility for special assistance.
- Sec. 208. Administrative error reduction.

## TITLE III—PROMOTING NUTRITION QUALITY AND PREVENTING CHILDHOOD OBESITY

- Sec. 301. Local school wellness policy.
- Sec. 302. Supporting nutrition education, improving meal quality, and access to local foods.
- Sec. 303. Fruits and vegetable commodities.
- Sec. 304. Fluid milk.
- Sec. 305. Waiver of requirements for weighted averages for nutrient analysis.
- Sec. 306. Whole grains.

## TITLE IV—IMPROVING THE WOMEN, INFANTS, AND CHILDREN PROGRAM

- Sec. 401. Definition of nutrition education.
- Sec. 402. Definition of supplemental foods.
- Sec. 403. Improving certification.
- Sec. 404. Reviews of available supplemental foods.
- Sec. 405. Notification of violations and infant formula benefits.
- Sec. 406. Healthy People 2010 initiative.
- Sec. 407. Competitive bidding.
- Sec. 408. Fruit and vegetable projects.
- Sec. 409. Price levels of retail stores.
- Sec. 410. Management information systems.
- Sec. 411. Infant formula fraud prevention.
- Sec. 412. State alliances.
- Sec. 413. Limits on expenditures.
- Sec. 414. Migrant and community health centers initiative.
- Sec. 415. Demonstration projects.
- Sec. 416. Authorization of appropriations.

## TITLE V—REAUTHORIZATION, MISCELLANEOUS PROVISIONS, AND EFFECTIVE DATE

- Sec. 501. Training, technical, and other assistance.
- Sec. 502. Notice of irradiated food.
- Sec. 503. Sense of Congress.
- Sec. 504. Reauthorization of programs.
- Sec. 505. Effective dates.

## TITLE I—ENSURING ACCESS TO CHILD NUTRITION PROGRAMS

**SEC. 101. EXCLUSION OF MILITARY HOUSING ALLOWANCES.**

Section 9(b)(7) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by striking “For each of fiscal years 2002” and all that follows through “the amount” and inserting “The amount”.

**SEC. 102. HOMELESS CHILDREN, RUNAWAY YOUTH, AND MIGRATORY CHILD ELIGIBILITY.**

(a) **IN GENERAL.**—Section 9(b)(6)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(A)) is amended—

- (1) in clause (ii), by striking “or”;
- (2) in clause (iii), by striking the period and inserting a semicolon; and
- (3) by inserting after clause (iii) the following:

“(iv) a homeless child or youth (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a));

“(v) a youth served by programs under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

“(vi) a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).”.

(b) **DOCUMENTATION.**—Section 9(d)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(d)(2)) is amended—

- (1) in subparagraph (B), by striking “or”;

(2) in sub paragraph (C), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (C) the following:

“(D) documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(6); or

“(E) documentation has been provided to the appropriate local educational agency showing the child’s status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).”.

#### **SEC. 103. ELIGIBILITY FOR SEVERE NEED ASSISTANCE.**

Section 4(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(d)) is amended—

(1) by striking the heading and all that follows through paragraph (1), and inserting:

“(d) SEVERE NEED ASSISTANCE.—

“(1) IN GENERAL.—Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price (or those new schools drawing their attendance from schools receiving severe need assistance).”; and

(2) in paragraph (2)—

(A) by striking “100 percent” and all that follows through “food, or”; and

(B) by striking “, whichever is less”.

#### **SEC. 104. REAUTHORIZATION OF SUMMER FOOD PROGRAMS.**

(a) SUMMER FOOD PILOT PROJECTS.—Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) by inserting after paragraph (1) the following:

“(2) ADDITIONAL STATES ELIGIBLE.—In addition to the States meeting the criteria set forth in paragraph (1), the 3 States with the highest percentage of households that are determined to be food insecure with hunger, as determined annually by the Secretary, shall be ‘eligible States’ for purposes of this subsection.”;

(3) in paragraph (3) (as so redesignated), by striking “March 31, 2004” and inserting “September 30, 2008”; and

(4) in paragraph (4) (as so redesignated), by striking “(other than a service institution described in section 13(a)(7))” both places it appears.

(b) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking “March 31, 2004” and inserting “September 30, 2008”.

#### **SEC. 105. CHILD AND ADULT CARE FOOD PROGRAM.**

(a) ELIGIBILITY OF PRIVATE CHILD CARE CENTERS.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subsection (a)(2)(B)(i), by striking “during the period” and all that follows through “March 31, 2004”; and

(2) by striking subsection (p).

(b) DURATION OF DETERMINATION AS TIER 1 FAMILY OR GROUP DAY CARE HOME.—Section 17(f)(3)(E)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(E)(iii)) is amended by striking “3 years” and inserting “5 years”.

(c) DURATION OF AGREEMENTS.—Section 17(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(j)) is amended to read as follows:

“(j) AGREEMENTS.—

“(1) IN GENERAL.—The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

“(2) DURATION.—An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.”.

(d) **MANAGEMENT IMPROVEMENT INITIATIVE.**—Section 17(q)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(q)(3)) is amended by striking “1999 through 2003” and inserting “2005 and 2006”.

(e) **AUDITS.**—Section 17(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(i)) is amended to read as follows:

“(i) **AUDITS.**—

“(1) **FUNDS FOR AUDITS.**—The Secretary shall make available for each fiscal year to a State administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except in the case of fiscal years 2005 through 2007, 1 percent) of the funds used by the State in the program under this section during the second preceding fiscal year.

“(2) **AUDIT PROCEDURES.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), in conducting management evaluations, reviews, or audits of the program under this subsection, the Secretary or a State agency may disregard any overpayment to an institution if the total overpayment for any fiscal year does not exceed an amount, consistent with the disregards allowed in other programs under this Act, which recognizes the cost of collecting small claims.

“(B) **CRIMINAL OR FRAUD VIOLATIONS.**—In carrying out this subsection, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.”.

(f) **EMERGENCY SHELTERS.**—Section 17(t)(5)(A)(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(t)(5)(A)(i)) is amended—

(1) in subclause (I)—

(A) by striking “12” and inserting “18”; and

(B) by inserting “or” after the semicolon; and

(2) by striking subclause (II) and redesignating subclause (III) as subclause

(II).

(g) **PAPERWORK REDUCTION.**—The Secretary of Agriculture, in conjunction with States and participating institutions, shall examine the feasibility of reducing paper work resulting from regulations and record-keeping requirements for State agencies, family child care homes, child care centers, and sponsoring organizations participating in the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

#### **SEC. 106. REVIEW OF BEST PRACTICES IN THE BREAKFAST PROGRAM.**

(a) **REVIEW.**—Subject to the availability of funds, the Secretary of Agriculture shall enter into an agreement with a research organization to collect and disseminate a review of best practices to assist schools in addressing existing impediments at the State and local level that hinder the growth of the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773). The review shall describe model breakfast programs and offer recommendations for schools to overcome obstacles, such as:

(1) the length of the school day;

(2) bus schedules; and

(3) potential increases in costs at the State and local level.

(b) **DISSEMINATION.**—Not later than 12 months after the date of enactment of this Act, the Secretary shall make the review required under subsection (a) available to local educational agencies via the Internet, including recommendations to improve participation in the school breakfast program. Not later than 12 months after the date of enactment of this Act, the review shall also be transmitted to the Committee on Education of the House of Representatives and the Committee on Agriculture of the Senate.

#### **SEC. 107. AREA ELIGIBILITY DEMONSTRATION.**

Section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) is amended by adding at the end the following:

“(r) **DEMONSTRATION PROGRAM.**—The Secretary shall support a demonstration program in rural areas of the State of Pennsylvania under the same terms and conditions as contained in this section, except that the threshold for determining ‘areas in which poor economic conditions exist’ under subsection (a)(1)(C) for such program shall be 40 percent of children enrolled are eligible for free or reduced price school meals and the State agency shall report to the Secretary on the effect of the demonstration on program participation in rural areas.”.

**SEC. 108. SEAMLESS SUMMER ADMINISTRATION.**

(a) SEAMLESS SUMMER WAIVER.—Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)) is amended by inserting after paragraph (7) the following:

“(8) Service institutions that are public or private nonprofit school food authorities may administer summer or school vacation food service under the provisions of the school lunch program established under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as determined by the Secretary.”

(b) PAYMENTS.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by inserting after subparagraph (C) the following:

“(D) Service institutions described in paragraph (a)(8) of this section shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this Act (other than subparagraphs (A), (B), and (C) of this paragraph) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.”

**SEC. 109. YEAR ROUND COMMUNITY CHILD NUTRITION PROGRAM PILOT.**

Section 13(a) of the Richard B. Russell National School Lunch Act is further amended by adding at the end the following:

“(9) YEAR ROUND COMMUNITY CHILD NUTRITION PROGRAM PILOT.—

“(A) IN GENERAL.—A service institution as defined in paragraph (7) may be reimbursed for up to 3 meals and 2 supplements for any day for which services are being offered at such institution. Such service institution shall be reimbursed for costs consistent with section 13(b).

“(B) MAXIMUM REIMBURSEMENT.—No reimbursement may be made to any institution under this paragraph for more than 3 meals and 2 supplements per child per day.

“(C) LIMITATION.—The Secretary shall limit reimbursement under this paragraph for meals and supplements served under a program to service institutions defined paragraph (7) located in California.”

## **TITLE II—IMPROVING PROGRAM QUALITY AND INTEGRITY**

**SEC. 201. ELIGIBILITY AND CERTIFICATION FOR FREE AND REDUCED PRICE LUNCHES.**

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended by striking “(b)(1)(A) Not later” and all that follows through paragraph (2) and inserting the following:

“(b) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

“(1) INCOME GUIDELINES.—

“(A) IN GENERAL.—Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). Such guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

“(B) FORMULA FOR REVISION.—The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

“(i) the official poverty line (as defined by the Secretary of Health and Human Services); by

“(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the Consumer Price Index data required to compute the adjustment becomes available.

“(2) CERTIFICATION OF ELIGIBILITY.—

“(A) ANNOUNCEMENT BY STATE EDUCATIONAL AGENCY.—Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local educational agencies shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

“(B) APPLICATIONS.—

“(i) IN GENERAL.—Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand, shall be distributed at least annually to the parents or guardians of children in attendance at the school.

“(ii) INCOME LEVELS.—Applications and descriptive material shall contain only the family size income eligibility guidelines for reduced price meal eligibility, with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such applications and descriptive material may not contain the income eligibility guidelines for free lunches.

“(iii) NOTIFICATION.—Descriptive materials shall contain a notification that participants in the Special Supplemental Nutrition Program for Women, Infants, and Children authorized under Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), or a State program funded under part A of title IV of the Social Security Act (if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995) are eligible for free or reduced price lunches. Such descriptive materials shall also contain a notice to parents that documentation may be requested for verification.

“(iv) ELECTRONIC AVAILABILITY.—In addition to the distribution of such applications and descriptive material in paper form as provided for in this paragraph, such applications and material may be made available electronically via the Internet.

“(C) ELIGIBILITY.—

“(i) HOUSEHOLD APPLICATIONS.—

“(I) IN GENERAL.—If an eligibility determination for a child is not made under clause (ii) or (iii), an eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary.

“(II) ADDITIONAL BASES.—Eligibility may be determined by the local educational agency on the basis of a complete application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary, including an electronic signature when the application is submitted electronically, and if the application filing system meets confidentiality standards established by the Secretary.

“(III) CHILDREN IN HOUSEHOLD.—

“(aa) IN GENERAL.—The application shall identify the names of each child in the household for whom meal benefits are requested.

“(bb) SEPARATE APPLICATIONS.—A State educational agency or local educational agency may not request a separate application for each child in the household.

“(IV) VERIFICATION.—The Secretary, State, or local educational agency may verify any data contained in such application. In accordance with guidance issued by the Secretary, each local educational agency shall verify a sample of approved free and reduced price applications and shall make appropriate changes in the eligibility determination with respect to such applications on the basis

of such verification. The sample selected for verification shall be as follows:

“(aa) For local educational agencies able to obtain verification information for at least 75 percent of all applications selected for verification in the prior year, or local educational agencies receiving more than 20,000 applications and that in the prior year had a verification non-response rate that was 10 percent below the verification non-response rate of the second prior year, the sample selected shall be either—

“(AA) the lesser of 3,000 or 3 percent of approved applications selected at random by the local educational agencies from all approved applications; or

“(BB) the lesser of 1,000 or 1 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals, plus the lesser of 500 or ½ of 1 percent of approved applications that provided a case number in lieu of income information showing participation in the food stamp program or Temporary Assistance for Needy Families program selected from those approved applications that provided a case number in lieu of income information verifying such participation.

“(bb) For all other local educational agencies, the sample selected shall be the lesser of 3,000 or 3 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals. If, for any local educational agency, the total number of such applications is less than 3,000 or 3 percent of all approved applications, the local educational agency shall select additional applications at random from all approved applications in order to obtain a total sample for verification of 3,000 or 3 percent of all approved applications.

“(V) SUBSTITUTIONS.—

“(aa) IN GENERAL.—In accordance with the regulations prescribed by the Secretary, the local educational agency may, upon individual review, decline to verify any application selected under subclause (IV) and replace it with another application to be verified. Such agency may decline to verify no more than 2 percent of the applications selected for verification under this subclause.

“(bb) SUBSTITUTE CRITERIA IN CASES OF EMERGENCIES.—The Secretary may substitute alternative criteria for the sample size and sample selection criteria in subclause (IV) to address a natural disaster, civil disorder, strike, or other local condition.

“(VI) DIRECT VERIFICATION.—

“(aa) IN GENERAL.—In accordance with regulations promulgated by the Secretary, in verifying the sample selected in accordance with subclause (IV), the local educational agency may first obtain from certain public agencies administering the programs identified in item (bb) of this subclause, and similar income-tested programs, information to verify eligibility for free or reduced price meals.

“(bb) PUBLIC AGENCY RECORDS.—Public agency records that may be used to verify eligibility for free meals shall include income information relied upon within 12 months prior to verification under subclause (IV) in the administration of the following programs: the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); the State program funded under part A of title IV of the Social Security Act; the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in a State in which the income eligibility limit described in section 1902(l)(2)(C) of the Social Security Act is no higher

than 133 percent of the income official poverty line as specified in section 1902(l)(2)(A) of such Act, in the case of eligibility for free meals, and 185 percent of the income official poverty line as specified in such section in the case of reduced price meals.

“(VII) PLAIN, UNDERSTANDABLE LANGUAGE.—Any and all communications to parents regarding verification under subclause (IV) shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(ii) DIRECT CERTIFICATION FOR CHILDREN IN FOOD STAMP HOUSEHOLDS.—

“(I) IN GENERAL.—Each State agency shall, to the extent practicable, enter into an agreement with the State agency conducting eligibility determinations for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

“(II) PROCEDURES.—Subject to clause (iv), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the program referred to in subclause (I) shall be certified as eligible for free meals under this Act, without further application.

“(III) DIRECT CERTIFICATION.—Subject to clause (iv), under the agreement, the local educational agency conducting eligibility determinations for a school meal program conducted under this Act shall certify a child who is a member of a household receiving assistance under the program referred to in subclause (I) as eligible for free meals under this Act without further application.

“(IV) NOTICE.—The appropriate local educational agency shall provide annually to the parents or guardians of all students who are members of a household receiving assistance under the program referred to in subclause (I), notification, in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, that any school-aged child in that household is eligible for free lunches or breakfasts.

“(iii) DIRECT CERTIFICATION OF CHILDREN IN OTHER HOUSEHOLDS.—Subject to clause (iv), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child’s status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)), or a member of a family that is receiving assistance under a State program funded under part A of title IV of the Social Security Act if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

“(iv) DISCLOSURE OF INFORMATION.—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clauses (ii) and (iii), shall be limited to—

“(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

“(II) a person directly connected with the administration or enforcement of—

“(aa) a Federal education program;

“(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

“(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section;

“(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

“(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program requirements under paragraph (1) or this paragraph; and



“(IV) a person directly connected with the administration of the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the local educational agency so elect.

“(v) LIMITATION.—Information provided under clause (iv)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii) or (iii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

“(vi) PENALTY FOR UNAUTHORIZED DISCLOSURE.—A person described in clause (iv) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

“(vii) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in clause (iv)(IV) shall ensure that any local educational agency acting in accordance with that option—

“(I) has a written agreement with the State or local agency or agencies administering health insurance programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under clause (iv) to seek to enroll children in those health insurance programs; and

“(II)(aa) notifies each household, the information of which shall be disclosed under clause (iv), that the information disclosed will be used only to enroll children in health programs referred to in clause (iv)(IV); and

“(bb) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

“(viii) USE OF DISCLOSED INFORMATION.—A person to which information is disclosed under clause (iv)(IV) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in clause (iv)(IV).

“(D) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a local educational agency shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the local educational agency. A routine change in the policy of a local educational agency, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the local educational agency to submit a policy statement.”.

(b) CONFORMING AMENDMENT.—Section 9(b)(6)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(B)) is amended by inserting “, or documentation showing the child’s status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2))” after “subparagraph (A)(iii)”.

#### SEC. 202. DURATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.

Section 9(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended to read as follows:

“(3) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

“(A) FREE LUNCHES.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch.

“(B) REDUCED PRICE LUNCHES.—

“(i) IN GENERAL.—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate

greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch.

“(ii) MAXIMUM PRICE.—The price charged for a reduced price lunch shall not exceed 40 cents.

“(C) DURATION.—Except as otherwise specified in section 11(a) or section 9(b)(2)(C)(i)(IV), eligibility for free or reduced price meals for any school year shall remain in effect—

“(i) beginning on the date of eligibility approval for the current school year; and

“(ii) ending on the date of the beginning of school in the subsequent school year or as otherwise specified by the Secretary.”.

#### **SEC. 203. CERTIFICATION BY LOCAL EDUCATIONAL AGENCIES.**

(a) CERTIFICATION BY LOCAL EDUCATIONAL AGENCY.—Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is further amended—

(1) in subsection (b)(5), by striking “Local school authorities” and inserting “Local educational agencies”; and

(2) in subsection (d)(2)—

(A) by striking “local school food authority” each place it appears and inserting “local educational agency”; and

(B) in subparagraph (A), by striking “such authority” and inserting “the local educational agency”.

(b) DEFINITION OF LOCAL EDUCATIONAL AGENCY.—Section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) LOCAL EDUCATIONAL AGENCY.—

“(A) IN GENERAL.—The term ‘local educational agency’ has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(B) INCLUSION.—The term ‘local educational agency’ includes, in the case of a private nonprofit school food authority, an appropriate entity determined by the Secretary.”.

(c) SCHOOL BREAKFAST PROGRAM.—Section 4(b)(1)(E)) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(E)) is amended by striking “school food authority” each place it appears and inserting “local educational agency”.

#### **SEC. 204. COMPLIANCE AND ACCOUNTABILITY.**

Section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c) is amended by inserting “and local educational agencies” after “food service authorities” each place it appears.

#### **SEC. 205. TECHNOLOGY IMPROVEMENT.**

(a) PRIORITY FOR REALLOCATED FUNDS.—Section 7(a)(5)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(ii)) is amended by inserting the following new sentence at the end: “The Secretary shall give priority consideration to States that will use the funds for improvements in technology and information management systems described in subsection (e)(2).”.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(b)) is amended by striking “and for staff development” and inserting “for staff development; and technology and information management systems”.

#### **SEC. 206. MINIMUM STATE ADMINISTRATIVE EXPENSE GRANTS.**

Section 7(a) of the Child Nutrition Act (42 U.S.C. 1776(a)(1)) is further amended—

(1) by striking the heading and all that follows through paragraph (1), and inserting the following:

#### **“SEC. 7. STATE ADMINISTRATIVE EXPENSES.**

“(a) AMOUNT AND ALLOCATION OF FUNDS.—

“(1) AMOUNT AVAILABLE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year the Secretary shall make available to the States for their Administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, 17, and 17A of the Richard B. Russell Na-

tional School Lunch Act (42 U.S.C. 1753, 1759a, 1766, and 1766a)) and sections 3 and 4 of this Act during the second preceding fiscal year.

“(B) MINIMUM AMOUNT.—In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for their administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004.

“(C) ALLOCATION.—The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection.

“(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”; and

(2) in paragraph (2), by striking “\$100,000” and inserting “\$200,000”.

**SEC. 207. DISTRICT-WIDE ELIGIBILITY FOR SPECIAL ASSISTANCE.**

Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i)—

(i) by inserting “or school district” after “in the case of any school”;

(ii) by inserting “or school district” after “in the school” both times it appears;

(iii) by inserting “or school district” after “in the case of a school”;

and

(iv) by inserting “or school district” after “with respect to the school”;

(B) in clause (ii)—

(i) by inserting “or school district” after “served by a school”; and

(ii) by inserting “or school district” after “served by the school”; and

(C) in clause (iii) by inserting “or school district” after “a school”;

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by inserting “or school district” after “any school”; and

(ii) by inserting “or school district” after “the school”;

(B) in clause (ii)—

(i) by inserting “or school district” after “A school”; and

(ii) by inserting “or school district” after “the school”;

(C) in clause (iii)—

(i) by inserting “or school district” after “a school”; and

(ii) by inserting “or school district” after “the school”; and

(D) in clause (iv) by inserting “or school district” after “levels, a school”;

and

(3) in subparagraph (E)—

(A) in clause (i)—

(i) by inserting “or school district” after “In the case of any school”;

(ii) by inserting “or school district” after “in the school” both times it appears;

(iii) by inserting “or school district” after “in the case of a school”;

(iv) by inserting “or school district” after “with respect to the school”;

(v) by inserting “or school district” after “received by the school”;

and

(vi) by inserting “or school district” after “for which the school”;

and

(B) in clause (ii)—

(i) by inserting “or school district” after “A school”;

(ii) by inserting “or school district” after “for which the school” both times it appears; and

(iii) by inserting “or school district” after “population of the school” both times it appears.

**SEC. 208. ADMINISTRATIVE ERROR REDUCTION.**

(a) FEDERAL SUPPORT FOR TRAINING AND TECHNICAL ASSISTANCE.—Section 21 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

“(e) ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIALS.—In collaboration with State educational agencies, school food authorities, and local educational agencies of varying sizes, the Secretary shall develop and distribute train-

ing and technical assistance materials relating to the administration of school meal programs that are—

“(1) prepared by the Secretary (based on research or other sources), a State educational agency, a school food authority, or a local educational agency; and

“(2) representative of the best management and administrative practices of State agencies, school food authorities, and local educational agencies as determined by the Secretary.

“(f) FEDERAL ADMINISTRATIVE SUPPORT.—

“(1) FUNDING.—

“(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection—

“(i) on October 1, 2004 and October 1, 2005, \$3,000,000; and

“(ii) on October 1, 2006, and October 1, 2007, \$2,000,000.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

“(C) AVAILABILITY OF FUNDS.—Funds transferred under subparagraph (A) shall remain available until expended.

“(2) USE OF FUNDS.—The Secretary may use funds provided under this subsection—

“(A) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

“(B) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

“(C) to carry out the activities described in subsection (e).”.

(b) SELECTED ADMINISTRATIVE REVIEWS.—Section 22(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(b)) is amended by adding at the end the following:

“(3) ADDITIONAL REVIEW REQUIREMENT FOR SELECTED LOCAL EDUCATIONAL AGENCIES.—

“(A) DEFINITION OF SELECTED LOCAL EDUCATIONAL AGENCY.—In this paragraph, the term ‘selected local educational agency’ means a local educational agency that has a demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary.

“(B) ADDITIONAL ADMINISTRATIVE REVIEW.—In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a).

“(C) SCOPE OF REVIEW.—In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

“(D) RESULTS OF REVIEW.—If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

“(i) require the selected local educational agency to develop and carry out an approved plan of corrective action;

“(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

“(iii) conduct a follow-up review of the selected local educational agency under standards established by the Secretary.

“(4) RECOVERING FUNDS AFTER ADMINISTRATIVE REVIEWS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a follow-up review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to recover funds from the local educational agency that would otherwise be paid to the school food authority or local edu-

cational agency for school meals programs under procedures prescribed by the Secretary.

“(B) AMOUNT.—The amount of funds recovered under subparagraph (A) shall equal the value of any overpayments made to the school food authority or local educational agency as a result of an erroneous claim during the time period described in subparagraph (C).

“(C) TIME PERIOD.—The period for determining the value of any such overpayments under subparagraph (B) shall be the period—

“(i) beginning on the date the erroneous claim was made; and

“(ii) ending on the earlier of the date the erroneous claim is corrected or—

“(I) in the case of the first review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or

“(II) in the case of any subsequent review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

“(5) USE OF RECOVERED FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds recovered under paragraph (4) shall—

“(i) be returned to the Secretary under procedures established by the Secretary, and may be used—

“(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

“(II) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

“(III) to carry out section 21(e); or

“(ii) be credited to the child nutrition programs appropriation account.

“(B) STATE SHARE.—Subject to subparagraph (C), a State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist school food authorities and local educational agencies that have repeatedly failed (as determined by the Secretary) to meet administrative performance criteria.

“(C) REQUIREMENT.—To be eligible to retain funds under subparagraph (B), a State educational agency shall—

“(i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to school food authorities and local educational agencies from which funds were retained under paragraph (4); and

“(ii) obtain the approval of the Secretary for the plan.”.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (e)—

(A) by striking “(e) Each” and inserting the following:

“(e) PLANS FOR USE OF ADMINISTRATIVE EXPENSE FUNDS.—

“(1) IN GENERAL.—Each”; and

(B) by striking “After submitting” and all that follows through “change in the plan.”, and inserting the following:

“(2) UPDATES AND INFORMATION MANAGEMENT SYSTEMS.—After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan. Each State plan shall at a minimum include a description of how technology and information management systems will be used to improve program integrity by—

“(A) monitoring the nutrient content of meals served;

“(B) training schools and school food authorities how to utilize technology and information management systems for activities such as menu planning, collecting point of sale data, processing applications for free and

reduced price meals and verifying eligibility for free and reduced price meals using existing databases to access program participation or income data collected by State or local educational agencies; and

“(C) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.

“(3) TRAINING AND TECHNICAL ASSISTANCE.—Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) and section 22(b)(3) of the Richard B. Russell National School Lunch Act (as added by section 208 of the Child Nutrition Improvement and Integrity Act).”;

(2) by redesignating subsection (g) as subsection (i); and

(3) by inserting after subsection (f) the following:

“(g) STATE TRAINING.—

“(1) IN GENERAL.—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to school food authority administrative personnel and other appropriate personnel, with emphasis on the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

“(2) FEDERAL ROLE.—The Secretary shall—

“(A) provide training and technical assistance (including training materials and information developed under subsections (e) and (f) of section 21 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1)) to a State to assist the State in carrying out paragraph (1); or

“(B) at the option of the Secretary, directly provide training and technical assistance described in paragraph (1).

“(3) THIRD-PARTY CONTRACTING.—In carrying out this subsection, the Secretary or a State may contract with a third party under procedures established by the Secretary.

“(4) REQUIRED PARTICIPATION.—Under procedures established by the Secretary that consider the various needs and circumstances of school food authorities, each school food authority or local educational agency shall ensure that an individual conducting or overseeing administrative procedures described in paragraph (1) receives training at least annually, unless determined otherwise by the Secretary.

“(h) FUNDING FOR TRAINING AND ADMINISTRATIVE REVIEWS.—

“(1) FUNDING.—

“(A) IN GENERAL.—On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection \$4,000,000, to remain available until expended.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected school food authorities and local educational agencies under section 22(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(b)(3)).

“(B) EXCEPTION.—The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

“(3) ALLOCATION.—The Secretary shall allocate funds provided in this subsection to States based on the number of local educational agencies that have demonstrated a high level of or a high risk for administrative error, as determined by the Secretary, taking into account the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

“(4) REALLOCATION.—The Secretary may reallocate, to carry out this section, any amounts made available to carry out this subsection that are not obligated or expended, as determined by the Secretary.”.

### **TITLE III—PROMOTING NUTRITION QUALITY AND PREVENTING CHILDHOOD OBESITY**

#### **SEC. 301. LOCAL SCHOOL WELLNESS POLICY.**

Not later than the first day of the school year beginning after June 30, 2006, local educational agencies participating in the programs authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for such local agency that at a minimum—

(1) includes goals for nutrition education, physical activity and other school-based activities designed to promote student wellness that the local educational agency determines are appropriate;

(2) includes nutrition guidelines selected by the local educational agencies for all foods available on school campus during the school day with the objective of promoting student health and reducing childhood obesity;

(3) provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the Secretary pursuant to section 10(a) and (b) of the Child Nutrition Act (42 U.S.C. 1779(a) and (b)) and section 9(f)(1) and section 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1) and 1766(a)), as those regulations and guidance apply to schools;

(4) establishes a plan for ensuring implementation of the local wellness policy, including designation of a person or persons within the local educational agency, or at each school as appropriate, charged with operational responsibility for ensuring that such school meets the local wellness policy; and

(5) involves parents, students, representatives of the school food authority, the school board, school administrators, and public in the development of the school wellness policy.

#### **SEC. 302. SUPPORTING NUTRITION EDUCATION, IMPROVING MEAL QUALITY, AND ACCESS TO LOCAL FOODS.**

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) by amending subsection (b) to read as follows:

“(b) **PURPOSE.**—It is the purpose of this section to support effective nutrition education through assistance to State agencies, schools, and nonprofit entities for Team Nutrition and other nutrition education projects that improve student understanding of healthful eating patterns, including an awareness and understanding of the Dietary Guidelines for Americans, the quality of school meals and access to local foods in schools and institutions operating programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and section 4 of this Act.”;

(2) by striking subsections (c) through (h) and inserting after subsection (b) the following:

“(c) **TEAM NUTRITION NETWORK.**—

“(1) **PURPOSE.**—The purpose of the Team Nutrition Network is to—

“(A) promote the nutritional health of the Nation’s school children through nutrition education, physical activity and other activities that support healthy lifestyles for children based on the Dietary Guidelines for Americans, issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, and the physical fitness guidelines issued by the Secretary of Health and Human Services;

“(B) provide assistance to States for the development of State-wide, comprehensive, and integrated nutrition education and physical fitness programs; and

“(C) provide training and technical assistance to States, school and community nutrition programs, and child nutrition food service professionals.

“(2) **STATE COORDINATOR.**—The State Team Nutrition Network Coordinator shall—

“(A) administer and coordinate a comprehensive integrated statewide nutrition education program; and

“(B) coordinate efforts with the Food and Nutrition Service and State agencies responsible for children’s health programs.

“(3) **TEAM NUTRITION NETWORK.**—Subject to the availability or appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall, on a competitive basis, provide assistance to States for the purpose of creating model nutrition education and physical activity pro-

grams, consistent with current dietary and fitness guidelines, for students in elementary schools and secondary schools.

“(4) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive assistance under this subsection, a State Coordinator shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) a description of how the proposed nutrition and physical activity program will promote healthy eating and physical activity and fitness and address the health and social consequences of children who are at risk of becoming overweight or obese;

“(B) information describing how nutrition activities are to be coordinated at the State level with other health activities conducted by education, health and agriculture agencies;

“(C) information describing how initiatives to promote physical activity are to be coordinated at the State level with other initiatives to promote physical activity conducted by education, health, and parks and recreation agencies;

“(D) a description of the consultative process that the State Coordinator employed in the development of the model nutrition and physical activity programs, including consultations with individuals and organizations with expertise in promoting public health, nutrition, or physical activity, and organizations representing the agriculture, food and beverage, fitness, and sports and recreation industries;

“(E) a description of how the State Coordinator will evaluate the effectiveness of its program; and

“(F) a description of how any and all communications to parents and guardians of all students who are members of a household receiving or applying for assistance under the program shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(5) DURATION.—Subject to the availability of funds made available to carry out this subsection, a State Coordinator shall conduct the project for a period of 3 successive school years.

“(6) AUTHORIZED ACTIVITIES.—An eligible applicant that receives assistance under this subsection may use funds to carry out one or more of the following activities—

“(A) collecting, analyzing, and disseminating data regarding the extent to which children and youth in the State are overweight or physically inactive and the programs and services available to meet those needs;

“(B) developing and implementing model elementary and secondary education curricula to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;

“(C) developing and implementing pilot programs in schools to increase physical activity and to enhance the nutritional status of students, including through the increased consumption of fruits and vegetables, whole grains, and lowfat dairy products;

“(D) developing and implementing State guidelines in health, which include nutrition education, and physical education and emphasize regular physical activity during school hours;

“(E) collaborating with community based organizations, volunteer organizations, State medical associations, and public health groups to develop and implement nutrition and physical education programs targeting lower income children, ethnic minorities, and youth at a greater risk for obesity;

“(F) collaborating with public or private organizations that have as a mission the raising of public awareness of the importance of a balanced diet and an active lifestyle; and

“(G) providing training and technical assistance to teachers and school food service professionals consistent with the purpose of this section.

“(7) LIMITATION.—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

“(8) REPORT.—Within 18 months of completion of the projects and the evaluations, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of the demonstration programs and shall make such reports available to the public, including through the Internet.

“(9) INDEPENDENT EVALUATION.—



“(A) IN GENERAL.—The Secretary shall enter into an agreement with an independent, non-partisan science-based research organization to conduct a comprehensive independent evaluation of the effectiveness of the Team Nutrition initiative and the Team Nutrition Network authorized by this subsection and to identify best practices in—

- “(i) improving student understanding of healthful eating patterns;
- “(ii) engaging students in regular physical activity and improving physical fitness;
- “(iii) reducing diabetes and obesity rates in school children;
- “(iv) improving student nutrition behaviors on the school campus including healthier meal choices evidenced by greater inclusion of fruits, vegetables, whole grains, and lean dairy and protein in meal and snack selections;
- “(v) providing training and technical assistance for food service professionals resulting in the availability of healthy meals that appeal to ethnic and cultural taste preferences;
- “(vi) linking meals programs to nutrition education activities; and
- “(vii) successfully involving school administrators, the private sector, public health agencies, non-profit organizations, and other community partners.

“(B) REPORT.—Not later than October 1, 2007, the Secretary shall transmit the findings of the independent evaluation to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(d) LOCAL NUTRITION AND PHYSICAL ACTIVITY PROJECT.—

“(1) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall provide assistance to not more than 100 local educational agencies, at least one per State, for the establishment of pilot projects for purposes of promoting healthy eating habits and increasing physical activity, consistent with the Dietary Guidelines for Americans issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, among elementary and secondary education students.

“(2) REQUIREMENT FOR PARTICIPATION IN PILOT PROJECT.—To be eligible to receive assistance under this subsection, a local educational agency shall, in consultation with individuals who possess education or experience appropriate for representing the general field of public health, including nutrition and fitness professionals, submit to the Secretary an application that shall include—

- “(A) a description of the local educational agency’s need for nutrition and physical activity programs;
- “(B) a description of how the proposed project will improve health and nutrition through education and increased access to physical activity;
- “(C) a description of how funds under this subsection will be coordinated with other programs under this Act, the Richard B. Russell National School Lunch Act, or other Acts, as appropriate, to improve student health and nutrition;
- “(D) a statement of the local educational agency’s measurable goals for nutrition and physical education programs and promotion;
- “(E) a description of how the proposed project will be aligned with the local wellness policy required under the Act;
- “(F) a description of the procedures the agency will use for assessing and publicly reporting progress toward meeting those goals; and
- “(G) a description of how communications to parents and guardians of participating students regarding the activities under this subsection shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(3) DURATION.—Subject to the availability of funds made available to carry out this subsection, a local educational agency receiving assistance under this subsection shall conduct the project during a period of 3 successive school years.

“(4) AUTHORIZED ACTIVITIES.—An eligible applicant that receives assistance under this subsection—

- “(A) shall use funds provided to—
  - “(i) promote healthy eating through the development and implementation of nutrition education programs and curricula based on the Dietary Guidelines for Americans; and
  - “(ii) increase opportunities for physical activity through after school programs, athletics, intramural activities, and recess; and

“(B) may use funds provided to—

“(i) educate parents and students about the relationship of a poor diet and inactivity to obesity and other health problems;

“(ii) develop and implement physical education programs that promote fitness and lifelong activity;

“(iii) provide training and technical assistance to food service professionals to develop nutritious, more appealing menus and recipes;

“(iv) incorporate nutrition education into physical education, health education, and after school programs, including athletics;

“(v) involve parents, nutrition professionals, food service staff, educators, community leaders, and other interested parties in assessing the food options in the school environment and developing and implementing an action plan to promote a balanced and healthy diet;

“(vi) provide nutrient content or nutrition information on meals served through the school lunch or school breakfast programs and items sold a la carte during meal times;

“(vii) encourage the increased consumption of a variety of healthy foods through new initiatives such as salad bars and fruit bars; and

“(viii) provide nutrition education, including sports nutrition education, for teachers, coaches, food service staff, athletic trainers, and school nurses.

“(5) LIMITATION.—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

“(6) REPORT.—Within 18 months of completion of the projects and evaluations, the Secretary shall transmit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of the pilot projects and shall make such reports available to the public, including through the Internet.

“(e) NUTRITION EDUCATION SUPPORT.—

“(1) IN GENERAL.—In carrying out the purpose of this section to support nutrition education, the Secretary may provide for technical assistance and grants to improve the quality of school meals and access to local foods in schools and institutions.

“(2) SCHOOL MEALS INITIATIVE.—The Secretary may provide assistance to enable State educational agencies to—

“(A) implement the recommendations of the Secretary’s School Meals Initiative for Healthy Children;

“(B) increase the consumption of fruits, vegetables, low-fat dairy products, and whole grains;

“(C) reduce saturated fat and sodium in school meals;

“(D) improve school nutritional environments; and

“(E) conduct other activities that aid schools in carrying out the Secretary’s School Meals Initiative for Healthy Children.

“(3) ACCESS TO LOCAL FOODS.—The Secretary may provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities for projects that—

“(A) improve access to local foods in schools and institutions participating in programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and Section 4 of this Act through farm-to-cafeteria activities that may include the acquisition of food and appropriate equipment and the provision of training and education;

“(B) are, at a minimum, designed to procure local foods from small- and medium-sized farms for school meals;

“(C) support nutrition education activities or curriculum planning that incorporates the participation of schoolchildren in farm and agriculture education activities;

“(D) develop a sustained commitment to farm-to-cafeteria projects in the community by linking schools, agricultural producers, parents, and other community stakeholders;

“(E) require \$100,000 or less in Federal contributions;

“(F) require a Federal share of costs not to exceed 75 percent;

“(G) provide matching support in the form of cash or in kind contributions (including facilities, equipment, or services provided by State and local governments and private sources); and

“(H) cooperate in an evaluation to be carried out by the Secretary.”; and

(3) by redesignating subsection (i) as subsection (f), and amending paragraph (1) of such subsection to read as follows:

“(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for carrying out this section for fiscal years 2004 through 2008.”.

**SEC. 303. FRUITS AND VEGETABLE COMMODITIES.**

Section 6(c)(1)(D) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)(D)) is amended by inserting “, and fruits and vegetables” before the period.

**SEC. 304. FLUID MILK.**

Section 9(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended to read as follows:

“(2) FLUID MILK.—

“(A) IN GENERAL.—Lunches served by schools participating in the school lunch program under this Act—

“(i) shall offer students fluid milk in a variety of fat contents;

“(ii) may offer students flavored and unflavored fluid milk and lactose-free fluid milk; and

“(iii) shall provide a substitute for fluid milk for students whose disability restricts their diet, upon receipt of a written statement from a licensed physician that identifies the disability that restricts the student’s diet and that specifies the substitute for fluid milk.

“(B) SUBSTITUTES.—

“(i) STANDARDS FOR SUBSTITUTION.—Schools may substitute for the fluid milk provided under subparagraph (A), a non-dairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards as established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow’s milk) for students who cannot consume fluid milk because of a medical or other special dietary need other than a disability described in subparagraph (A)(iii).

“(ii) NOTICE.—Such substitutions may be made if the school notifies the State agency that it is implementing a variation allowed under this subparagraph, and if such substitution is requested by written statement of a medical authority or by a student’s parent or legal guardian that identifies the medical or other special dietary need that restricts the student’s diet, provided that the school shall not be required to provide beverages other than those it has identified as acceptable substitutes.

“(iii) EXCESS EXPENSES BORNE BY THE SCHOOL DISTRICT.—Expenses incurred in providing substitutions pursuant to this subparagraph that are in excess of those covered by reimbursements under this Act shall be paid by the school district.

“(C) RESTRICTIONS ON SALE OF MILK PROHIBITED.—A school or institution that participates in the school lunch program under this Act shall not directly or indirectly restrict the sale or marketing of fluid milk products by the school (or by a person approved by the school) at any time or any place—

“(i) on the school premises; or

“(ii) at any school-sponsored event.”.

**SEC. 305. WAIVER OF REQUIREMENTS FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.**

Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)) is amended to read as follows:

“(5) WAIVER OF REQUIREMENTS FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—State educational agencies may grant waivers to school food authorities to the requirement for weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if—

“(A) the school food authority has an equivalent system for conducting a nutrient analysis, subject to State agency approval; and

“(B) the equivalent system adequately documents the extent to which the school food authority is meeting the Dietary Guidelines for Americans and other nutrition standards.

In addition, the Secretary may waive, on a case by case basis, the requirement for a State agency to use weighted averages when conducting a nutrient anal-

ysis as part of a review (of compliance with the Dietary Guidelines and other nutrition standards) of a school food authority not using nutrient standard menu planning, when, in the Secretary's determination, an alternative analysis would yield results that would adequately measure a school food authority's compliance with current nutrition standards for school meals."

**SEC. 306. WHOLE GRAINS.**

Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate rules, based on Federal nutrition guidelines, to increase the presence of whole grains in foods offered in school nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

## **TITLE IV—IMPROVING THE WOMEN, INFANTS, AND CHILDREN PROGRAM**

**SEC. 401. DEFINITION OF NUTRITION EDUCATION.**

Section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)) is amended—

- (1) by inserting "and physical activity" after "dietary habits"; and
- (2) by striking "nutrition and health" and inserting "nutrition, health, and child development".

**SEC. 402. DEFINITION OF SUPPLEMENTAL FOODS.**

Section 17(b)(14) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(14)) is amended by inserting after "children" the following: "and foods that promote health as indicated in the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)".

**SEC. 403. IMPROVING CERTIFICATION.**

(a) **CERTIFICATION OF WOMEN WHO ARE BREASTFEEDING.**—Section 17(d)(3)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(A)) is amended by adding at the end the following: "A State may certify breast-feeding women for up to 1 year, or until women stop breast-feeding, whichever is earlier."

(b) **PHYSICAL PRESENCE REQUIREMENT.**—Section 17(d)(3)(C)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(ii)) is amended—

- (1) in subclause (I)(bb), by striking "from a provider other than the local agency; or" and inserting a semicolon;
- (2) in subclause (II)(cc), by striking the period at the end and inserting "and"; and
- (3) by inserting after subclause (II) the following:
  - "(III) an infant under 8 weeks of age—
  - "(aa) who cannot be present at certification for a reason determined appropriate by the local agency; and
  - "(bb) for whom all necessary certification information is provided."

(c) **PROCESSING APPLICATIONS UNDER SPECIAL CIRCUMSTANCES.**—Section 17(f)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)) is amended by—

- (1) redesignating clauses (ix) and (x) as clauses (x) and (xi), respectively; and
- (2) inserting after clause (viii) the following:
  - "(ix) procedures whereby a State agency may accept and process vendor applications outside of the established time-frames, such as in situations in which a previously authorized vendor changes ownership under circumstances that do not permit timely notification to the State agency of such change in ownership;"

(d) **RESCHEDULING POLICIES.**—Section 17(f)(19) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(19)) is amended—

- (1) in subparagraph (A), by striking "and" and inserting a semicolon;
- (2) in subparagraph (B), by striking the period and inserting "and"; and
- (3) by adding at the end the following:
  - "(C) require local agencies to permit an applicant or participant to reschedule an appointment to apply or be recertified for the program."

**SEC. 404. REVIEWS OF AVAILABLE SUPPLEMENTAL FOODS.**

(a) **SCIENTIFIC REVIEW.**—Section 17(f)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)) is amended to read as follows:

“(11)(A) The Secretary shall prescribe by regulations the supplemental foods to be made available in the program under this section. To the degree possible the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

“(B) Beginning in 2013 and every 10 years thereafter, or more frequently if determined by the Secretary to be necessary to reflect current scientific knowledge, the Secretary shall conduct a scientific review of the supplemental foods available in the program and recommend, as necessary, changes to reflect nutrition science, current public health concerns, and cultural eating patterns.”.

(b) **RULEMAKING.**—The Secretary shall promulgate a rule updating the prescribed supplemental foods available through the program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) within 6 months of receiving the review of the food package for such program undertaken by the National Academy of Sciences, Institute of Medicine in September 2003.

**SEC. 405. NOTIFICATION OF VIOLATIONS AND INFANT FORMULA BENEFITS.**

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following:

“(25) **NOTIFICATION OF VIOLATIONS.**—If a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise its investigation.

“(26) **INFANT FORMULA BENEFITS.**—

“(A) **IN GENERAL.**—The State agency may round up to the next whole can of infant formula to ensure that all infants receive the full-authorized nutritional benefit specified by regulation.

“(B) **LIMITATION.**—Subparagraph (A) applies only to infant formula contracts awarded under bid solicitations made on or after October 1, 2004.”.

**SEC. 406. HEALTHY PEOPLE 2010 INITIATIVE.**

Section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended—

- (1) in subparagraph (D), by striking “; and” and inserting a semicolon;
- (2) in subparagraph (E), by striking the period at the end and inserting “; and”; and
- (3) by inserting after subparagraph (E) the following:

“(F) partner with communities, State and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the program under this section to support the breastfeeding goals of the Healthy People 2010 initiative.”.

**SEC. 407. COMPETITIVE BIDDING.**

Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

“(iv) **REBATE INVOICES.**—Each State agency shall have a system to ensure that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section.

“(v) **CENT-FOR-CENT ADJUSTMENTS.**—A bid solicitation for infant formula under the program made on or after October 1, 2004 shall require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires—

“(I) a cent-for-cent increase in the rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular infant formula; or

“(II) a cent-for-cent decrease in the rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular infant formula.”.

**SEC. 408. FRUIT AND VEGETABLE PROJECTS.**

Section 17(h)(10)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(B)(ii)) is amended by inserting after “under this section” the following: “, which may include demonstration projects in up to 10 local sites, determined to be geographically and culturally representative of local States and Indian agencies,

to evaluate the inclusion of fresh, frozen, or canned fruits and vegetables (to be made available through private funds) as an addition to the supplemental food provided under this section”.

**SEC. 409. PRICE LEVELS OF RETAIL STORES.**

Section 17(h)(11) of the Child Nutrition Act of 1966 is amended by adding at the end the following:

“(C) ADDITIONAL REQUIREMENTS.—

“(i) The State agency shall evaluate a vendor applicant based on its shelf prices or on the prices it bids for supplemental foods, which may not exceed its shelf prices.

“(ii) The State agency shall establish price limitations on the amount that it will pay vendors for supplemental foods. The State agency shall ensure that price limitations do not result in inadequate participant access by geographic area.

“(iii) In establishing competitive price and price limitation requirements, the State agency may exclude pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program.

“(iv) The State agency shall establish competitive price requirements and price limitations for vendor peer groups, as necessary to ensure that prices paid to vendors are competitive. Vendor peer group competitive price requirements and price limitations may reflect reasonable estimates of varying costs of acquisition of supplemental foods.

“(D) INCENTIVE ITEMS.—The State agency shall not authorize a retail food store that provides incentive items or other free merchandise to program participants if funds available under this program were used to purchase such items or merchandise.

“(E) RULES OF CONSTRUCTION.—Nothing in this section may be construed to authorize violation of the Sherman Antitrust Act (15 U.S.C. 1 et seq.) or the Robinson-Patman Act (15 U.S.C. 13 et seq.).”.

**SEC. 410. MANAGEMENT INFORMATION SYSTEMS.**

Section 17(h)(12) of the Child Nutrition Act of 1996 (42 U.S.C. 1786(h)(12)) is amended—

(1) by amending subparagraph (B) to read as follows:

“(B) ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

“(i) IN GENERAL.—All States that receive Federal funds for design or implementation of electronic benefit transfer (EBT) systems for the program under this section shall use technical specifications or standards, as applicable, as determined by the Secretary, except as provided in clause (ii).

“(ii) EXISTING SYSTEMS.—EBT systems for the program under this section that are in development or are issuing benefits as of the date of enactment shall be required to submit within 6 months after the date of enactment of this subparagraph a plan for compliance.

“(iii) WAIVER.—The Secretary may waive compliance with this subparagraph for State EBT systems for the program under this section that are issuing benefits as of the date of enactment of this subparagraph until such time that compliance is feasible.”; and

(2) by amending subparagraph (C) to read as follows:

“(C) UNIVERSAL PRODUCT CODES DATABASE.—The Secretary shall implement a national Universal Product Code Database for use by all State agencies in carrying out the program and shall make available from appropriated funds such sums as may be required for hosting, hardware, and software configuration, and support.”.

**SEC. 411. INFANT FORMULA FRAUD PREVENTION.**

Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is further amended by adding at the end the following:

“(13) APPROVED PROVIDERS OF INFANT FORMULA.—

“(A) IN GENERAL.—The State agency shall maintain a list of infant formula manufacturers, wholesalers, distributors, and retailers approved to provide infant formula to vendors.

“(B) LIST.—The list required under subparagraph (A) shall include food manufacturers, wholesalers, distributors, and retailers licensed in the State in accordance with State law and regulations to distribute infant formula and food manufacturers registered with the U.S. Food and Drug Administration that provide infant formula.

“(C) PURCHASE REQUIREMENT.—Vendors authorized to participate in the program under this section shall purchase infant formula from the list required under subparagraph (A).”.

**SEC. 412. STATE ALLIANCES.**

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is further amended—

(1) in subsection (b) by adding at the end the following:

“(22) ‘State alliance’ means 2 or more State agencies that join together for the purpose of procuring infant formula by soliciting competitive bids.”; and

(2) in subsection (h)(8)(A) by adding at the end the following:

“(vi) SIZE OF STATE ALLIANCES.—No State alliance may form among States whose infant participation exceeds 200,000 based on program participation as of October 2003, except that—

“(I) an alliance among States with a combined 200,000 infant participants as of October 2003 may continue, and may expand to include more than 200,000 infants, but may not expand to include any additional State agencies that were not included in the alliance as of October 1, 2003, other than as provided in subclause (II); and

“(II) any State agency serving fewer than 5,000 infant participants as of October 2003, or any Indian Tribal Organization, may request to join any State alliance.”.

**SEC. 413. LIMITS ON EXPENDITURES.**

Section 17(i)(3)(A)(ii)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)(A)(ii)(I)) is amended by striking “1 percent” and inserting “3 percent”.

**SEC. 414. MIGRANT AND COMMUNITY HEALTH CENTERS INITIATIVE.**

Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

**SEC. 415. DEMONSTRATION PROJECTS.**

(a) CHILD NUTRITION ACT OF 1966.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsection (r).

(b) NATIONAL SCHOOL LUNCH ACT.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (p).

**SEC. 416. AUTHORIZATION OF APPROPRIATIONS.**

(a) REAUTHORIZATION OF PROGRAM.—Section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) is amended by striking “(g)(1) There are authorized” and all that follows through “through 2003.” in paragraph (1) and inserting the following:

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2008.”.

(b) NUTRITION SERVICES AND ADMINISTRATION FUNDS.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended—

(1) in paragraph (2)(A), by striking “1995 through 2003” and inserting “2004 through 2008”; and

(2) in paragraph (10)(A), by striking “1995 through 2003” and inserting “2004 through 2008”.

(c) FARMERS’ MARKET NUTRITION PROGRAM.—Section 17(m)(9)(A)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)) is amended to read as follows:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2008.”.

## **TITLE V—REAUTHORIZATION, MISCELLANEOUS PROVISIONS, AND EFFECTIVE DATE.**

**SEC. 501. TRAINING, TECHNICAL, AND OTHER ASSISTANCE.**

Section 21(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(a)(1)) is amended to read as follows:

“(1) subject to the availability of and from amounts appropriated pursuant to subsection (e)(1), shall provide—

“(A) training and technical assistance to improve the skills of individuals employed in food service programs carried out under this Act, section

4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), and, as appropriate, other federally assisted feeding programs;

“(B) training and technical assistance to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including training and technical assistance to ensure compliance with section 12(n) of this Act (42 U.S.C. 1760(n));

“(C) assistance, on a competitive basis, to State agencies for the purpose of aiding schools and school food authorities with at least 50 percent of enrolled children certified to receive free or reduced price meals, and, if there are any remaining funds, other schools and school food authorities in meeting the cost of acquiring or upgrading technology and information management systems for use in food service programs carried out under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if the school or school food authority submits to the State agency an infrastructure development plan that addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology in—

“(i) methods to ensure that there shall not be any overt identification of any such child by special tokens or tickets, announced or published list of names, or by any other means;

“(ii) processing and verifying applications for free and reduced price school meals;

“(iii) integrating menu planning, production, and serving data to monitor compliance with section 9(f)(1); and

“(iv) establishing compatibility with statewide reporting systems;

“(D) assistance, on a competitive basis, to State agencies with low proportions of schools or students that participate in the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and that demonstrate the greatest need, for the purpose of aiding schools in meeting costs associated with initiating or expanding a school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including outreach and informational activities; and”.

#### SEC. 502. NOTICE OF IRRADIATED FOOD.

Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end the following:

“(h) NOTICE OF IRRADIATED FOOD.—The Secretary shall develop policy and establish procedures for the purchase and distribution of irradiated food products in Federal school meals programs. The policies and procedures shall ensure at a minimum that—

“(1) irradiated food products are made available only at the request of States and school food authorities;

“(2) reimbursements to schools for irradiated food products are equal to reimbursements to schools for non-irradiated products;

“(3) States and school food service authorities are provided factual information on the science and evidence regarding irradiation technology, including notice that irradiation is not a substitute for safe food handling techniques and any such other information necessary to promote food safety in school meal programs;

“(4) States and school food service authorities are provided model procedures for providing factual information on the science and evidence regarding irradiation technology and any such other information necessary to promote food safety in school meals to school food service authorities, parents, and students regarding irradiation technology;

“(5) irradiated food products distributed to the Federal school meals program are labeled with a symbol or other printed notice indicating that the product was treated with irradiation and is prominently displayed in a clear and understandable format on the container;

“(6) irradiated products are not commingled with non-irradiated products in containers; and

“(7) encourages schools that offer irradiated foods to offer alternatives to irradiated food products as part of the meal plan used by schools.”.

#### SEC. 503. SENSE OF CONGRESS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is further amended by adding at the end the following:

“(p) SENSE OF CONGRESS.—It is the sense of Congress that Federal resources provided under this Act and the Child Nutrition Act of 1966 dedicated to child nu-



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trition should support the most effective programs within the Federal agency that is most capable of assisting children in nutritional need. Congress encourages the elimination of initiatives that are duplicative of other Federal efforts, particularly those that are duplicative of programs conducted under this Act and the Child Nutrition Act of 1966.”.

**SEC. 504. REAUTHORIZATION OF PROGRAMS.**

(a) STATE ADMINISTRATIVE EXPENSES.—Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) (as amended by this Act) is amended by striking “2003” and inserting “2008”.

(b) COMMODITY DISTRIBUTION PROGRAM.—

(1) Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking “March 31, 2004” and inserting “September 30, 2008”.

(2) Section 15(e) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) is amended by striking “April 1, 2004” and inserting “October 1, 2008”.

(c) PURCHASES OF LOCALLY PRODUCED FOODS.—Section 9(j)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 758(j)(2)(A)) is amended by striking “2007” and inserting “2008”.

(d) TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.—Section 21(g)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(e)(1)) (as amended by this Act) is further amended by striking “for each of fiscal years 1992 through 2003” and inserting “for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008”.

(e) COMPLIANCE AND ACCOUNTABILITY.—Section 22(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “2003” and inserting “2008”.

**SEC. 505. EFFECTIVE DATES.**

The amendments made by sections 101, 104, 105(a), 202, 410, 416, and 504 shall take effect on the date of enactment of this Act. The amendments made by sections 201 and 208(c) shall take effect on July 1, 2005. All other amendments made by this Act shall take effect October 1, 2005.